

m/045/027

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**RECEIVED**

**NOV 20 2002**

DIV. OF OIL, GAS & MINING

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**IN THE THIRD DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT**  
**IN AND FOR TOOELE COUNTY, STATE OF UTAH**

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**WORTHEN WILLIAMS, L.L.C.** )  
**and UTAH REFRACTORIES** )  
**CORPORATION,** )

Plaintiffs, )

vs. )

**KRISS GARCIA; TOOELE** )  
**COUNTY; JOHN DOES 1-10; JANE** )  
**DOES 1-10; and all other persons** )  
**unknown, claiming any right, title,** )  
**estate or interest in or lien upon the** )  
**real property described in this** )  
**Complaint adverse to the Plaintiff's** )  
**ownership or clouding Plaintiff's** )  
**title thereto,** )

Defendants. )

**ANSWER TO COMPLAINT**

Civil No. \_\_\_\_\_

Judge \_\_\_\_\_

Defendant Kriss Garcia (“Garcia”), by and through his counsel Robert G. Pruitt, III, responds to the Complaint dated October 25, 2002 filed on behalf of Worthen Williams L.L.C. and Utah Refractories Corporation, as follows:

1. Defendant Garcia denies Plaintiff Worthen Williams L.L.C. is the owner of the real property described in Paragraph 1 of the Complaint. Defendant Garcia admits that the “Property” which is the subject of this lawsuit is described in Defendant’s Complaint at Paragraph 1.

2. Defendant Garcia lacks sufficient knowledge or information to form a belief concerning the truthfulness of the allegations in Paragraph 2, and therefore, denies the same.

3. Admit.

4. Admit.

5. Defendant Garcia is without sufficient knowledge or information to form a belief concerning the truthfulness of the allegations in Paragraph 5, and therefore denies the same.

### **Jurisdiction**

6. Defendant Garcia admits that this action is brought to quiet title to the Property located in Tooele County, Utah, but denies each and every remaining allegation contained in Paragraph 6 of the Complaint.

7. Admit.

8. Admit.

### **Ownership of Plaintiff Worthen Williams, L.L.C.**

9. Defendant Garcia denies Plaintiff Worthen Williams acquired title to the Property. Defendant Garcia is without information sufficient to form belief as to the truthfulness of the remaining allegations, and therefore denies the same.

10. Defendant Garcia denies General Acquisition Corporation acquired title to the Property. As to the remaining allegations in Paragraph 10, Defendant Garcia lacks sufficient information to form a belief as to the truthfulness, and therefore denies the same.

11. Defendant Garcia denies General Refractories Company acquired title to the Property, and lacks sufficient information to form a belief as to the truthfulness of the remaining allegations in Paragraph 11 and therefore denies the same.

12. Denied. By way of affirmative defense, Defendant Garcia asserts that there is no record evidence in Tooele County that Interpace Corporation acquired title to the Property.

13. Denied. There is no record evidence in Tooele County showing that Gladding McBean and Company acquired title to the Property.

14. Admit.

15. Denied.

**First Course of Action**  
**Set Aside Tax Sale and Cancel Tax Deed**

16. Defendants incorporate the answers to Paragraphs 1-15 as though fully set forth herein.

17. Admit.

18. Admit.

19. Denied.

20. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 20, and therefore denies the same.

21. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 21, and therefore denies the same.

22. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 22, and therefore denies the same.

23. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 23, and therefore denies the same.

24. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 24, and therefore denies the same.

25. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 25, and therefore denies the same.

26. Defendant Garcia lacks sufficient information to form a belief as to the truthfulness of the allegation in Paragraph 26, and therefore denies the same.

**Second Cause of Action**  
**Sale of More Property than Necessary to Satisfy Tax Debt**

27. Defendant Garcia incorporates the answers of Paragraph 1-26 as though fully set forth herein.

28. Denied.

29. Defendant Garcia admits Tooele County sold him the entire forty acres in exchange for \$442.68. Defendant Garcia denies each and every remaining allegation in Paragraph 29.

30. Denied.

**Third Cause of Action**  
**Equitable Estoppel**

31. Defendant Garcia incorporates the answers of Paragraphs 1-30 as though fully set forth herein.

32. Defendant Garcia had no knowledge of Plaintiffs or their operations on the Property prior to the tax sale. As to the remaining allegations, Defendant Garcia lacks sufficient information to form a belief of the truthfulness of the remaining allegation in Paragraph 32, and therefore denies the same.

33. Defendant Garcia lacks sufficient information to form an opinion as to the truthfulness of the allegations in Paragraph 33 and therefore denies the same.

34. Defendant Garcia lacks sufficient information to form an opinion as to the truthfulness of the allegations in Paragraph 34 and therefore denies the same.

35. Defendant Garcia lacks sufficient information to form an opinion as to the truthfulness of the allegations in Paragraph 35 and therefore denies the same.

36. Denied. Title should be quieted in Kriss Garcia.

**First Affirmative Defense**

37. Plaintiffs have failed to pay the property taxes due and owing on the Property.

### **Second Affirmative Defense**

38. Plaintiffs have failed to record evidence of their title to the Property as required by Utah Code Ann. § 57-3-103 and consequently, Plaintiffs' chain of title is void as against the title of Defendant Garcia to the Property.

### **Third Affirmative Defense**

39. Plaintiffs' predecessor in title abandoned the Property to Tooele County for payment of past due property taxes, and failed to redeem the Property by payment of property taxes in a timely matter.

### **Fourth Affirmative Defense**

40. Plaintiffs had actual notice of the tax sale of the Property.

### **Fifth Affirmative Defense**

41. Plaintiffs have failed to pay for property, severance or production taxes on materials mined from the Property, and have misrepresented or failed to report production from the Property to the Utah Division of Oil, Gas and Mining and the Utah State Tax Commission, Centrally Assessed Properties Division.

### **Sixth Affirmative Defense**

42. Plaintiffs have not maintained the requisite payment of property taxes and exclusive occupation required for adverse possession of the Property.

### **Seventh Affirmative Defense**

43. If Plaintiffs were to prevail in their complaint, they would be unjustly enriched at the expense of Defendant Garcia and Defendant Tooele County.

Wherefore, Defendant Garcia respectfully requests judgment of this Court as follows:

1. Confirming the tax sale and tax deed in favor of Defendant Kriss Garcia.
2. Quieting title to the Property in Kriss Garcia as against Plaintiffs Worthen Williams, L.L.C. and any of their predecessors in interest, or any other party claiming an interest in the Property.
3. Judgment that Defendant Garcia's title to the Property is hereby quieted.
4. Judgment that Plaintiffs are liable for reclamation of impacts of mining caused by Plaintiffs or their predecessors on the Property as required by the Utah Division of Oil, Gas and Mining.
5. For such other and further relief as the Court considers just, fair and equitable.



DATED this 9<sup>th</sup> day of November, 2002.

**PRUITT, GUSHEE & BACHTELL**

A handwritten signature in black ink, appearing to read "Robert G. Pruitt, III", written over a horizontal line.

Robert G. Pruitt, III  
Attorney for Defendant Kriss Garcia

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## CERTIFICATE OF MAILING

I hereby certify that on this 19<sup>th</sup> day of November, 2002, I caused a true and correct copy of the foregoing Answer to be mailed in the United States mail, postage prepaid to the following:

Lon Rodney Kump  
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